

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Rollie Bredeson,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-1181
Parcel No. 030/00330-000-000

On April 12, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Rollie Bredeson, a local real estate professional, filed the appeal on behalf of Sherman Hill Coop Housing Association and represented it at hearing. Assistant County Attorney Ralph Marasco, Jr., represented the Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Sherman Hill Coop Housing Association is the owner of property located at 707 18th Street, Des Moines, Iowa. The real estate was classified residential on the January 1, 2011, assessment. It was valued at \$1,005,600, representing \$60,000 in land value and \$945,600 in improvement value. Sherman Hill Coop Housing Association protested the assessment to the Polk County Board of Review on the ground that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1). The Board of Review denied the protest.

Rollie Bredeson then appealed to this Board on behalf of Sherman Hill Coop Housing Association, reasserting its claim. No value for the subject property was stated.

According to the property record card, the subject property is a three-story, apartment style, building built in 1968. It has 27,224 square-feet of building area which is 100% finished. There are thirty-four units. Additionally, there are 3200 square-feet of concrete patio; 9000 square-feet of asphalt paving; and 600 lineal-feet of chain-link fencing. The subject site is 0.689-acres.

Bredeson provided two properties as equity comparables. The properties are located at 709 17th Street and 708 16th Street, Des Moines. Both are similar to the subject property and both have the following characteristics: three-story apartment buildings built in 1967; 22,989 square-feet of building area; and thirty-two units. What distinguishes these properties from the subject property, however, is that both are commercially classified properties compared to the subject, which has a residential classification. Because the properties have different classifications, they cannot be compared for equity purposes. Even without this important distinction, we further note that neither property has sold recently.¹ Without sales prices or other evidence of the market value for these properties, an equity analysis cannot be developed.

The Board of Review provided the property record cards for the subject property and Sherman Hill Coop Housing Association's two equity comparables.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or

¹ Both properties sold in March 2001 for \$1,430,000, in a multiple parcel purchase. O.P.M. Partners is noted as the purchaser in both transactions, and we assume the purchase included both of these parcels, but we cannot discern whether other parcels were also included in the transaction.

additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.

Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this

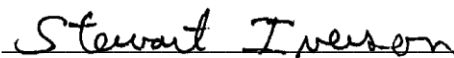
actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied. Sherman Hill Coop Housing Association did not provide sufficient evidence to support an equity claim under either test.

THE APPEAL BOARD ORDERS the assessment of Sherman Hill Coop Housing Association's property located at 707 18th Street, Des Moines, Iowa, of \$1,005,600 as of January 1, 2011, as set by the Polk County Board of Review is affirmed.

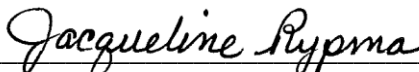
Dated this 6th day of May 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on May 6, 2013.

By: ☒ U.S. Mail ☐ FAX
 ☐ Hand Delivered ☐ Overnight Courier
 ☐ Certified Mail ☐ Other



Signature _____